

1 Name Dean T. Kirby, Jr.  
 2 Bar Code # California 090114  
 3 Address KIRBY & McGUINN, A P.C.  
 4 600 B Street, Suite 1950  
 5 San Diego, CA 92101  
 6 Phone # (619)525-1652

8 UNITED STATES BANKRUPTCY COURT  
 9 DISTRICT OF NEVADA

10 USA COMMERCIAL MORTGAGE COMPANY	)	Bankruptcy No. <u>BK-S-06-10725-LBR</u>
11 fka USA Capital	)	Chapter No. <u>11</u>
12 Debtor	)	VERIFIED PETITION FOR
13 vs.	)	PERMISSION TO PRACTICE
14	)	IN THIS CASE ONLY BY
15 Defendant(s)	)	ATTORNEY NOT ADMITTED
	)	TO THE BAR OF THIS COURT
	)	EFFECTIVE JUNE 1, 2004
	)	FILING FEE IS \$175.00

17 Dean T. Kirby, Jr, Petitioner, respectfully represents to the Court:

19 1. That Petitioner resides at 600 B Street, Suite 1950  
 20 (street address)

21 San Diego, San Diego  
 (city) (county)

22 California, 92101, (619) 525-1652  
 23 (state) (zip code) (area code + telephone number)

27 CAUTION: DO NOT REVISE OR RETYPE THIS FORM  
 28

2. That Petitioner is an attorney at law and a member of the law firm of \_\_\_\_\_

KIRBY & McGUINN, A P.C. with offices at

600 B Street, Suite 1950

(street address)

San Diego, CA, 92101, (619) 685-4000

(city)

(zip code)

(area code + telephone number)

3. That Petitioner has been retained personally or as a member of the law firm by

Debt Acquisition Company of America to provide legal representation in connection with

[client(s)]

the above-entitled case now pending before this Court.

4. That since November, 1979, Petitioner has been and presently is a member

(date)

in good standing of the bar of the highest Court of the State of California

(state)

where Petitioner regularly practices law.

5. That Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States and Courts of other States on the dates indicated for each, and that Petitioner is presently a member in good standing of the bars of said Courts.

Date Admitted

USDC So. District of California

11/79

USDC Central District of California

9/94

USDC Northern District of California

5/01

9th Circuit Court of Appeal

11/85

United States Supreme Court

6/05

USDC Eastern District of California

8/00

6. That there are or have been no disciplinary proceedings instituted against petitioner, nor any suspension of any license, certificate or privilege to appear before any judicial, regulatory or administrative body, or any resignation or termination in order to avoid disciplinary or disbarment proceedings, except as described in detail below:

See attachment

7. That Petitioner has never been denied admission to the State Bar of Nevada. (Give particulars of ever denied admission):

8. That Petitioner is a member of good standing in the following Bar Associations:

State Bar of California; San Diego Bar Association

9. Petitioner or any member of Petitioner's firm (or office if firm has offices in more than one city) with which Petitioner is associated has/have filed application(s) to appear as counsel under Local Rule IA 10-2 during the past three (3) years in the following matters:

Date of Application	Cause	Title of Court Administrative Body or Arbitrator	Was Application Granted or Denied

(If necessary, please attach a statement of additional applications)



1 10. Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State  
2 of Nevada with respect to the law of this state governing the conduct of attorneys to the same extent  
3 as a member of the State Bar of Nevada.

4 11. Petitioner agrees to comply with the standards of professional conduct required of the  
5 members of the bar of this court.

6 12. Petitioner has disclosed in writing to the client that the applicant is not admitted to  
7 practice in this jurisdiction and that the client has consented to such representation.

8 That Petitioner respectfully prays that Petitioner be admitted to practice before this Court  
9 FOR THE PURPOSES OF THIS CASE ONLY.

10 DATED: November 21, 2006

Petitioner's Signature

11 STATE OF California )  
12 )  
13 COUNTY OF San Diego )

14 Dean T. Kirby, Jr., Petitioner, being first duly sworn, deposes and says:  
15 That the foregoing statements are true.

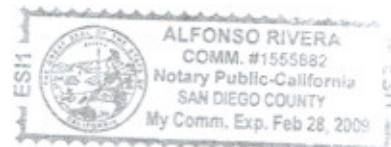
Petitioner's Signature

16  
17 (SEAL)

18 Subscribed and sworn to before me this

19 21<sup>st</sup> day of November, 2006.

20 [Signature]  
21 Notary public



I have never had a complaint filed against me with the California State Bar by a client. However, another attorney has filed such a complaint.

In 1993, Mr. Robert Smith, a Los Angeles attorney, was the principal of a debtor in bankruptcy, the Castle Creek Inn. The debtor itself was actually represented by David Osias of Allen, Matkins, Leck, Gamble & Mallory, a large law firm with offices in San Diego. I represented a mortgage lender, Saratoga Capital, Inc.

Under our local rules of bankruptcy procedure, I was required to serve the debtor by mailing copies of bankruptcy papers directly to the debtor and concurrently to their bankruptcy attorney. Without notifying Mr. Osias or attempting to resolve the matter informally, Mr. Smith filed a complaint with the State Bar to the effect that by mailing notices directly to him I violated California Rule of Professional Conduct 2-100, which prohibits a lawyer from contacting directly an adverse party who is represented by an attorney.

The complaint was summarily dismissed by the State Bar of California. There was no hearing and I was not disciplined in any way.